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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053622
Party	Plaintiff UMG Recordings, Inc.
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Signature	/Jason Jones/
Date	02/17/2012
Attachments	Answer to Counterclaim with Exhibits 1 - 3 (F0961397).PDF ( 46 pages ) (3853287 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 3,059,241  
Mark: J5

UMG RECORDINGS, INC.,

Petitioner,

- against -

SIGGY MUSIC, INC.,

Registrant.

Cancellation No. 92053622

**ANSWER TO REGISTRANT'S AMENDED COUNTERCLAIM**

UMG Recordings, Inc. ("Petitioner"), by its attorneys Fross Zelnick Lehrman & Zissu, P.C., for its Answer to Registrant's Amended Counterclaim, states as follows:

1. Admits that Registrant purports to be the record owner of U.S. Registration No. 3,059,241 referenced in Paragraph 43 of the Amended Counterclaim, admits that Exhibit A to the Amended Counterclaim appears to show the status of the referenced registration as of July 13, 2011, and respectfully refers the Board to said registration for the contents therein. Petitioner denies the remaining allegations of Paragraph 43 of the Amended Counterclaim.

2. States that Paragraph 44 of the Amended Counterclaim asserts legal conclusions to which no response is required, and otherwise denies the allegations of Paragraph 44.

3. Admits the allegations of Paragraph 45 of the Amended Counterclaim, but denies that Paragraph 45 of the Amended Counterclaim contains a complete recitation of Petitioner's allegations in Paragraph 2 of the Petition and respectfully refers the Board to Paragraph 2 of the Petition for its contents.

4. Denies the allegations of Paragraph 46 of the Amended Counterclaim, and respectfully refers the Board to the document cited in Paragraph 46 for its contents.

5. Denies the allegations of Paragraph 47 of the Amended Counterclaim, and respectfully refers the Board to the documents cited in Paragraph 47 for their contents.

6. Denies the allegations of Paragraph 48 of the Amended Counterclaim.

7. States that Paragraph 49 of the Amended Counterclaim does not contain any allegations of fact to which a responsive pleading is required, but nevertheless denies that the purported “evidence” referenced in Paragraph 49 exists or that there are any factual bases for Registrant’s allegations referenced therein.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 50 of the Amended Counterclaim that “since November 1, 2004, Registrant or Registrant’s predecessor in interest has continuously used Registrant’s Mark in connection with ‘clothing, namely, footwear, shoes, hats, caps, shirts, and jackets’ in International Class 25” and therefore denies the same, and otherwise denies the allegations of Paragraph 50 of the Amended Counterclaim.

9. Denies the allegations of Paragraph 51 of the Amended Counterclaim, and respectfully refers the Board to the document cited in Paragraph 51 for its contents.

10. Denies the allegations of Paragraph 52 of the Amended Counterclaim, but admits that the documents cited therein are true and correct copies of chain of title documents either generated by or submitted to the U.S. PTO in connection with Registration No. 965,809 and otherwise respectfully refers the Board to the documents cited in Paragraph 52 for their contents.

11. Denies the allegations of Paragraph 53 of the Amended Counterclaim.

12. Denies the allegations of Paragraph 54 of the Amended Counterclaim, and states that official public records of the California Secretary of State and the U.S. PTO demonstrate that MRAC, L.P., a California limited partnership, changed its name to Motown Record Company, L.P., a California limited partnership, on September 2, 1993 upon assignment to MRAC of the assets of Motown Record Company, L.P., a Delaware limited partnership, including Registration No. 965,809. True and correct copies of such documents, located in the U.S. PTO assignment records at Reel/Frame 1286/250-1286/279, Reel/Frame 1071/226-1071/230, and Reel/Frame 001996/0291, which demonstrate the corporate name change and assignment referenced herein are attached hereto as **Exhibits 1, 2 and 3.**

13. Denies the allegations of Paragraph 55 of the Amended Counterclaim.

14. Denies the allegations of Paragraph 56 of the Amended Counterclaim.

15. States that Paragraph 57 of the Amended Counterclaim does not contain any allegations of fact to which a responsive pleading is required, but nevertheless denies that the purported “evidence” referenced in Paragraph 57 exists or that there are any factual bases for Registrant’s allegations referenced therein.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 58 of the Amended Counterclaim that “since November 1, 2004, Registrant or Registrant’s predecessor in interest has continuously used Registrant’s Mark in connection with ‘clothing, namely, footwear, shoes, hats, caps, shirts, and jackets’ in International Class 25” and therefore denies the same, and otherwise denies the allegations of Paragraph 58 of the Amended Counterclaim.

17. States that the “WHEREFORE” clause of the Amended Counterclaim is a Prayer for Relief that requires no response, but nevertheless denies that Registrant is entitled to any of the relief requested therein.

18. All allegations not specifically admitted above are hereby denied.

### AFFIRMATIVE DEFENSES

#### FIRST AFFIRMATIVE DEFENSE

19. The Amended Counterclaim fails to state a claim upon which relief can be granted.

20. Registrant’s allegations in the Amended Counterclaim are insufficient as a matter of law because they fail to meet the standard for alleging fraud under *In re Bose Corp.*, 91 U.S.P.Q. 2d 1938 (Fed. Cir. 2009).

21. To the extent Registrant’s Amended Counterclaim for fraud is based on Petitioner’s allegedly deficient chain of title concerning Registration No. 965,809, official public records of the California Secretary of State and the U.S. PTO conclusively and clearly show that Petitioner’s claim of ownership of this registration during the prosecution of Application Serial No. 76/536,394 was true. See **Exhibits 1-3.**

#### SECOND AFFIRMATIVE DEFENSE

22. The Amended Counterclaim fails to plead fraud with the particularity required by Federal Rule of Civil Procedure 9(b).

#### THIRD AFFIRMATIVE DEFENSE

23. Registrant lacks standing to bring and/or maintain the Amended Counterclaim.

#### FOURTH AFFIRMATIVE DEFENSE

24. The Amended Counterclaim does not comply with Federal Rule of Civil Procedure 8(a) and (e), which require a “short and plain statement of the claim showing the pleader is entitled to relief” and 37 CFR § 2.104(a) and TBMP § 312.03, which require “a short and plain statement” of the reasons why Registrant believes it would be damaged by the registration of the mark at issue. As such, Petitioner is not required to separately admit or deny each of the allegations contained therein.

#### FIFTH AFFIRMATIVE DEFENSE

25. The Amended Counterclaim is barred by the doctrine of waiver.

#### SIXTH AFFIRMATIVE DEFENSE

26. The Amended Counterclaim is barred by the doctrine of estoppel.

#### SEVENTH AFFIRMATIVE DEFENSE

27. The Amended Counterclaim is barred by the doctrine of laches.

#### EIGHTH AFFIRMATIVE DEFENSE

28. The Amended Counterclaim is barred by the doctrine of acquiescence.

WHEREFORE, Petitioner demands that Registrant’s Amended Counterclaim be dismissed with prejudice.

Dated: New York, New York  
February 17, 2012

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

David Donahue  
Jason D. Jones  
866 United Nations Plaza  
New York, New York 10017  
Tel: (212) 813-5900  
Fax: (212) 813-5901

*Attorneys for Petitioner*

# EXHIBIT 1



**TRADEMARK**

**REEL 1286 FRAME 250**

**This AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT** dated as of August 30, 1993 of MRAC, L.P., a California limited partnership, is entered into by and among Polygram KK, a Japanese corporation ("PolyKK"), Polydor KK, a Japanese corporation ("Polydor"), and Motown Entertainment (Deutschland) GmbH, a German corporation ("MED"), as general partners, PolyGram Holding, Inc., a Delaware corporation ("PHI"), as the withdrawing general partner and PolyGram Group Distribution, Inc., a Delaware corporation ("PGD"), PolyGram Manufacturing and Distribution Centers, Inc., a Delaware corporation ("PMDC"), PolyGram Records, Inc., a Delaware corporation ("PRI"), PHI, Motown Management Corporation, a Delaware corporation ("MMC"), and Mr. Jheryl Busby ("Busby"), as limited partners, and Richard Constant ("Constant") as the withdrawing limited partner, with reference to the following facts:

**A. The Partnership** (as defined herein) was formed pursuant to the Agreement of Limited Partnership, dated as of July 30, 1993 (the "Original Agreement"), and the filing of a Certificate of Limited Partnership on July 30, 1993 (the "Original Certificate") with the California Secretary of State. The parties hereto desire to amend and restate the Original Agreement to provide for (i) the admission of PolyKK, Polydor and MED as general partners, (ii) the admission of PGD, PMDC, PRI and PHI as limited partners, (iii) upon such admissions, the withdrawal of PHI as general partner and Constant as limited partner, and (iv) upon the Closing (as defined herein), the admission of MMC and Busby as limited partners.

**B. The parties** have agreed to continue the Partnership for the purposes set forth in Section 2.3 of this Agreement.

## **AGREEMENT**

Now, therefore, in consideration of the mutual promises and agreements made herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

### **ARTICLE 1 DEFINITIONS**

1.1 **Definitions.** When used in this Agreement, the following terms shall have the meanings set forth below, except as otherwise specifically modified herein:

**"Act"** means the California Revised Limited Partnership Act, Chapter 3 of Title 2 of the California Corporations Code, as amended from time to time.

**"Agreement"** means this Amended and Restated Agreement of Limited Partnership, as it may be further amended, supplemented or restated from time to time.

**"Asset Purchase Agreement"** means that certain Asset Purchase Agreement dated as of July 30, 1993 by and between Motown and Partnership, as such agreement may be amended from time to time.

**"Closing"** has the meaning set forth in the Asset Purchase Agreement.

**"General Partner"** means, upon the filing of the certificate described in Section 2.10, each of PolyKK, Polydor and MED, and also includes any Person admitted as an additional or substitute general partner of the Partnership pursuant to the provisions of this Agreement. Upon the filing of such certificate, PHI shall cease to be general partner of the Partnership.

**"Limited Partner"** means, upon the filing of the certificate described in Section 2.10, PGD, PMDC, PRI and PHI, and also includes any Person admitted as an additional or substitute limited partner of the Partnership pursuant to the provisions of this Agreement, including, but not limited to, MMC and Busby upon satisfaction of the condition set forth in Section 2.10(b). Upon the filing of such certificate, Constant shall cease to be a limited partner of the Partnership.

**"Management Committee"** means the committee established pursuant to Section 5.2.

**"Motown"** means Motown Record Company, LP., a Delaware limited partnership.

**"Notification"** means a writing, containing the information required by this Agreement to be communicated to any Person, sent as provided in Section 10.1.

**"Partner"** means any General Partner or Limited Partner.

**"Partnership"** means MRAC, L.P.

**"Partnership Interest" or "Interest"** means the interest of a Partner in all rights, benefits and obligations to which such Partner may be entitled or subject, as set forth in or determined under this Agreement.

**"Percentage Interest"** means [REDACTED] in the case of PolyKK, [REDACTED] in the case of Polydor, [REDACTED] in the case of MED and [REDACTED] in the case of each Limited Partner.

**"Person"** means an individual, a corporation, a partnership, an association, a trust, or any other entity or organization.

**"Representative"** means the person selected by a Partner to be its representative on the Management Committee, as provided in Section 5.4.

## ARTICLE 2 THE PARTNERSHIP

2.1 **Name.** The name of the Partnership shall be:

MRAC, L.P.

However, upon compliance with applicable laws and contemporaneous with the closing of the acquisition of Motown's assets pursuant to the Asset Purchase Agreement, the Partnership shall change its name to:

MOTOWN RECORD COMPANY, L.P.

2.2 **Continuation of Partnership.** The parties hereby continue a limited partnership heretofore formed under and pursuant to the Act.

2.3 **Business and Purpose.** The purposes and business of the Partnership shall be (i) the acquisition of the assets of Motown and the ownership, operation, sale and other transfer of such assets as a record business, including, but not limited to, the exploitation of the Motown repertoire of new and catalogue artists in the United States and the worldwide exploitation of any and all trademarks, trade names and

services marks acquired pursuant to the Asset Purchase Agreement, (ii) the carrying on of any and all activities reasonably related thereto, and (iii) the carrying on of any other business or activities lawful for the Partnership under the laws of the State of California.

#### **2.4 Powers.**

(a) In furtherance of the foregoing purposes, the Partnership shall have the power to take any action or incur any obligation necessary, convenient or appropriate in connection with, or to facilitate and support the purposes of, the Partnership.

(b) Without limiting the preceding paragraph, the Partnership has the power to employ such employees and agents as may from time to time be deemed appropriate for the conduct of the business of the Partnership. Such employees and agents may be designated as officers of the Partnership, with such titles and having such authority as the Management Committee shall designate. Such employees and agents may act for and on behalf of the Partnership, as and to the extent authorized by the Management Committee.

**2.5 California Office; Agent for Service of Process.** The Partnership shall continuously maintain an office in the State of California at which it shall keep the material required by Section 15615 of the Act. The Management Committee shall determine the location of such office and may change such location from time to time. The agent of the Partnership in the State of California for service of process on the Partnership is Milton E. Olin, Jr., Esq., 1416 North La Brea Avenue, Los Angeles, California 90028, until changed by the Management Committee from time to time.

**2.6 Principal Place of Business.** The principal place of business of the Partnership shall initially be at 1416 North La Brea Avenue, Los Angeles, California. However, contemporaneous with the closing of the acquisition of Motown's assets pursuant to the Asset Purchase Agreement, the Partnership's principal place of business shall be changed to 6255 Sunset Boulevard, Los Angeles, California. The Management Committee may from time to time change such principal place of business, and may from time to time establish and change such other places of business for the Partnership as it may deem necessary or appropriate.

**2.7 Execution of Documents.** The General Partners have caused a Certificate of Limited Partnership of the Partnership to be filed in the office of the California Secretary of State. The Partners shall from time to time execute, acknowledge, file, record or deliver all other certificates, instruments and other documents, and counterparts thereof, including, without limitation, a fictitious business name statement or statements, and perform all other acts, as shall be necessary or appropriate to comply with applicable law in connection with the activities of the Partnership and, when appropriate, for the termination of the Partnership.



**2.8 Term.** The term of the Partnership commenced on the date of the filing of the Partnership's Original Certificate in the office of the California Secretary of State. The term of the Partnership shall continue until July 31, 2018, unless extended by amendment of this Agreement or unless the Partnership is dissolved prior to that date pursuant to Article 6. The existence of the Partnership as an entity shall continue until it is dissolved, wound up and terminated, in accordance with Article 6.

**2.9 Voting By Limited Partners.** Except as may expressly be required by this Agreement or mandatory provisions of applicable law which cannot be modified by this Agreement, the Limited Partners shall have no right to vote on any matter involving or relating to the Partnership. Without limiting the generality of the preceding sentence, the Limited Partners shall have no right to vote on, consent to, contest or otherwise approve or object to any agreement or transaction of any nature by or involving the Partnership so long as the Management Committee has approved such agreement or transaction, whether or not any other party to such agreement or transaction may be directly or indirectly controlled by, in control of or under common control with any of the Partners or any of the Representatives, and whether or not any of the Partners or any of the Representatives may otherwise have a conflict of interest in connection with such agreement or transaction.

**2.10 Admission of New General and Limited Partners.**

(a) Upon the filing of an Amended and Restated Certificate of Limited Partnership of the Partnership ("Amended Certificate") with the California Secretary of State which indicates that PolyKK, Polydor and MED are admitted to the Partnership as general partners of the Partnership, said admission shall become effective. The parties also agree that PHI shall cease to be a general partner of the Partnership at the time the Amended Certificate is filed with the California Secretary of State which reflects the fact that PHI is not listed on the Amended Certificate as a general partner of the Partnership. Further, the parties agree that upon the filing of the Amended Certificate PGD, PMDC, PRI and PHI shall be admitted as limited partners of the Partnership and Constant shall cease to be a limited partner of the Partnership.

(b) Upon the Closing and without any further action on the part of the Partners, MMC and Busby shall be admitted as limited partners of the Partnership and shall each make the capital contribution to the Partnership of the cash set forth with respect to such party on Schedule A.

### ARTICLE 3 CAPITAL CONTRIBUTIONS AND PARTNERSHIP CAPITAL

**3.1 Capital Contributions.** Immediately prior to the closing of the acquisition of Motown's assets pursuant to the Asset Purchase Agreement, each Partner shall make a capital contribution to the Partnership of the cash set forth with respect to such Partner on Schedule A. The amount of each Partner's capital contribution will be credited to its capital account. No Limited Partner shall have any obligation to make any contribution to the Partnership other than as set forth on Schedule A.

**3.2 Capital Accounts.** A separate capital account shall be established for each Partner by the Partnership.

**3.3 Partnership Capital.**

(a) No Partner shall be paid interest on any capital contribution to the Partnership or on such Partner's capital account, notwithstanding any disproportion therein as between Partners.

(b) Except as provided in Section 9.4, the Partnership shall not redeem or repurchase any Partner's Partnership Interest, and no Partner shall have the right to withdraw any part of such Partner's capital contribution.

**3.4 Loans.** Any Partner may lend money to the Partnership on such terms and conditions as the lending Partner and the Management Committee shall determine. No such loan shall be regarded as a contribution to the capital of the Partnership.

### ARTICLE 4 DISTRIBUTIONS OF CASH; ALLOCATIONS OF INCOME AND LOSSES

**4.1 Distribution of Cash.**

(a) The Partnership will distribute cash to the General Partners from time to time when determined by the Management Committee. Except for liquidating distributions pursuant to Section 6.2(b)(iii), no Limited Partner shall have the right to any cash distribution from the Partnership.

(b) Except as provided in Section 4.1(c), cash shall be distributed to the General Partners pro rata in accordance with their respective capital contributions, until each General Partner has received an amount equal to its capital contribution;

thereafter, cash shall be distributed to the General Partners pro rata in accordance with their respective Percentage Interests.

(c) All liquidating distributions of the Partnership shall be made in accordance with Section 6.2(b).

4.2 Allocation of Income and Losses. All items of income, gain, loss, deduction and credit of the Partnership shall be allocated among the Partners for book and tax purposes in accordance with their Percentage Interests.

4.3 Determination of Distributions Among Partners.

(a) All distributions of cash shall be paid to the Persons who are Partners on the day such distribution is made.

(b) The Partnership shall withhold from any distribution such amounts as are required to be withheld by the laws of any taxing jurisdiction. Such withheld amounts shall be treated as amounts distributed to the respective Partners on whose account the withholding was imposed for all purposes of this Agreement.

**ARTICLE 5  
MANAGEMENT**

5.1 Management of Partnership. Prior to the consummation of the Partnership's acquisition of the assets of Motown, the business and affairs of the Partnership shall be managed by the General Partners, with each one of them having full right and power to act alone. Subsequent to the consummation thereof, the business and affairs of the Partnership shall be managed by any two of the General Partners acting together, with the two General Partners acting together having the full right and power to take any and all actions on behalf of the Partnership.

5.2 Delegation of Authority to Management Committee. The Partnership shall have a management committee, the members of which shall be appointed in the manner provided in Section 5.4. Subject to the rights of the General Partners provided in Section 5.1, the Management Committee shall be responsible for all aspects of the operations of the Partnership, shall have full authority and discretion with respect to the management of the business of the Partnership and shall have the right, power and authority to cause the Partnership to do, or cause to be done, all acts and actions which in its judgment are necessary, proper, convenient or desirable in order to operate and conduct the business of the Partnership and to carry out and fulfill the purposes of the Partnership. The Management Committee shall not, however, take any action inconsistent with any action taken by any two General Partners acting together.



### **5.3 Delegation of Authority: Officers.**

(a) The Partnership shall have such officers with such powers and duties as the Management Committee shall determine from time to time. Each officer of the Partnership shall serve at the pleasure of the Management Committee, without prejudice to the rights, if any, of such officer under any contract of employment. Any officer may resign at any time, but without prejudice to the rights, if any, of the Partnership under any contract to which such officer is a party.

(b) The Management Committee may delegate all or any portion of its rights, powers and authority hereunder to an executive committee, consisting of one or more Representatives, which may exercise all such delegated right, power and authority between meetings of the Management Committee; provided, however, that the Chief Executive Officer of PolyGram N.V. shall be a member of any such executive committee.

(c) The Management Committee may delegate all or any portion of the right, power and authority to manage the day-to-day business, affairs, operations and activities of the Partnership to any officer of the Partnership or other person, subject to the ultimate direction, control and supervision of the Management Committee.

### **5.4 Members of the Management Committee: Appointment and Removal.**

(a) The Management Committee shall consist of one Representative selected by each Partner. Each Partner shall also have the right to appoint an alternate to each Representative selected by that Partner by giving Notification to the other Partners. In case of the absence of a Representative, the alternate for that Representative may exercise all rights and powers of the absent Representative. Each Partner shall have the absolute and unconditional right to remove and to change its Representative and alternate from time to time by giving Notification to the other Partners. A vacancy on the Management Committee may be filled only by the Partner that originally appointed the Representative whose death, disability, removal or resignation created such vacancy. The Management Committee will initially consist of the seven Representatives listed below, who will serve on the Management Committee until their death, disability, removal or resignation. The General Partners agree that the Chief Executive Officer of PolyGram N.V. shall be selected by them as one of their Representatives.



**General Partner****Representative****PolyKK****Terumi Mizuta****Polydor****Takeo Gotoh****MED****Alain Levy****Limited Partner****PGD****John Reid****PMDC****Jan Cook****PHI****Clarence Avant****PRI****Eric Kronfeld**

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(b) Upon the Closing and without any further action on the part of the Partners, the Management Committee shall be expanded to nine Representatives, with the addition of the two Representatives listed below, who will serve on the Management Committee until their death, disability, removal or resignation.

**Limited Partner****Bushy****Jheryl Busby****MMC****Martha H.W. Crowninshield**

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**5.5 Meetings of the Management Committee.**

(a) Regular meetings of the Management Committee shall be held without call or notice at such time and place as shall from time to time be fixed by standing resolution of the Management Committee. Special meetings of the Management Committee may be held at any time and place whenever called by any Representative selected by a General Partner. Notification of a special meeting of the Management Committee shall be given to the other Representatives in accordance with the procedures set forth in Section 10.1 by the Representative calling the meeting at least forty-eight hours before the special meeting.

(b) The presence of six Representatives, one of whom must be a General Partner's Representative, at a regular or duly noticed special meeting of the Management Committee shall constitute a quorum for the transaction of business. Minutes for each Management Committee meeting shall be prepared and distributed to every Representative. Representatives may participate in a meeting through the use of

conference telephone or similar communications equipment, and such Representatives shall be considered present in person as long as all Representatives participating in such meeting can hear one another.

(c) Every act of the Management Committee taken at any meeting of the Management Committee, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum is present and if, either before or after the meeting, each of the Representatives not present signs a written waiver of notice or a written consent to holding such meeting or approval of the minutes thereof.

(d) An act or decision done or made by a majority of the total number of Representatives present at a duly held meeting at which is quorum is present shall constitute action by the Management Committee.

(e) Any action required or permitted to be taken at any meeting of the Management Committee may be taken without a meeting if at least six Representatives, one of whom must be a General Partner's Representative, consent thereto in writing, the writing or writings are filed with the minutes of proceedings of the Management Committee and a copy of the writing or writings is sent to each non-consenting Representative.

5.6 Indemnification. The Partnership shall indemnify each member of the Management Committee pursuant to an indemnification agreement in the form of the attached Exhibit B or such other form as is mutually acceptable to such member and the Partnership.

## ARTICLE 6 DISSOLUTION, LIQUIDATION AND TERMINATION OF THE PARTNERSHIP

6.1 Events Causing Dissolution. The Partnership shall dissolve and its affairs shall be wound up upon the happening of any of the following events:

- (a) the expiration of its term as set forth in Section 2.8;
- (b) the sale or other disposition of all or substantially all the assets of the Partnership;
- (c) the written election of all of the General Partners to dissolve the Partnership (the Limited Partners having no right to vote);

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(ii) To payment (or the making of reasonable provision for payment thereof) of all debts and obligations of the Partnership to any Partners, prorated in accordance with the amount owed to each Partner if such remaining amounts are not sufficient to pay all such debts and obligations;

(iii) To the Partners, pro rata in accordance with their respective unreturned capital contributions, until each Partner has received an amount equal to any portion of its capital contribution which has not theretofore been distributed pursuant to Section 4.1(b); and

(iv) To the General Partners, in accordance with their respective Percentage Interests.

6.3 Cancellation of Certificate of Limited Partnership. Upon the completion of the winding up of the Partnership, the General Partners shall use their best efforts to cause any necessary documentation to be filed in order to reflect the termination of the Partnership.

#### ARTICLE 7 ACCOUNTING; BOOKS AND RECORDS; ETC.

7.1 Accounting; Fiscal Year. The books and records of the Partnership shall be kept in accordance with any reasonable accounting method designated by the Management Committee. The fiscal year of the Partnership shall end on November 30 in each year.

7.2 Books and Records. The General Partners shall maintain, or cause to be maintained, all records necessary for documenting and reporting the business and affairs of the Partnership.

7.3 Bank Accounts. The Partnership shall establish and maintain accounts in such financial institutions (including, without limitation, national or state banks, trust companies, or savings and loan institutions) and in such amounts as the Management Committee may deem necessary from time to time. Checks shall be drawn on and withdrawals of funds shall be made from any such accounts for Partnership purposes and shall be signed by the person or persons designated by the Management Committee.

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## ARTICLE 8 AMENDMENTS

8.1 Amendments. This Agreement may be amended with the consent of a majority in Partnership Interest of the General Partners; provided, however, that without the consent of all of the Limited Partners, no amendment shall be effective that (i) increases the liability of any Limited Partner to the Partnership, to any Partner or any third party or (ii) adversely affects the rights of any Limited Partner under this Agreement or under applicable law.

8.2 Copies of Amendments. This Agreement and each amendment hereto or thereto shall be kept in the files of the Partnership and copies hereof and thereof shall be made available to each Partner upon written request.

## ARTICLE 9 ASSIGNMENTS; ADDITIONAL AND SUBSTITUTE PARTNERS

9.1 Assignments. No Partner may assign any interest in the Partnership without the consent of all of the other Partners. No assignee of any interest in the Partnership will have the right to exercise any rights of a Partner unless and until the assignee is admitted as a substitute General Partner or Limited Partner, as the case may be.

9.2 Removal. The Limited Partners shall have no right to remove a General Partner, whether or not the General Partner has assigned all of its interest in the Partnership.

9.3 Additional and Substitute Partners. A Person may be admitted as General or Limited Partner, either in addition to the then General and Limited Partners or in substitution for one or more of them, only with the approval of all of the other Partners.

9.4 Busby and MMC. Sections 9.1-9.3 do not apply to the transfers of the interests of MMC and Busby described in this Section. MMC agrees to sell its interest in the Partnership to the Partnership for \$1 upon payment to the Holder (as defined in the Sales Earnout dated as of September 1, 1993 between the Partnership and Motown (the "Sales Earnout")) of the amount provided in Section 1 of the Sales Earnout. Busby agrees to sell his interest in the Partnership to the Partnership for \$1 upon payment to the Holder (as defined in the Profit Earnout dated as of September 1, 1993 between the Partnership and Motown (the "Profit Earnout")) of the amount provided in Section 1.1 of the Profit Earnout. Any interest in the Partnership purchased pursuant to this Section shall be cancelled contemporaneous with such purchase.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

**10.1 Notification.** All notices and other communications required or permitted hereunder shall be in writing, shall be deemed duly given upon actual receipt, and shall be delivered (a) in person, (b) by registered or certified mail (air mail if addressed to an address outside of the country in which mailed), postage prepaid, return receipt requested, (c) by a generally recognized overnight courier service which provides written acknowledgement by the addressee of receipt, or (d) by facsimile or other generally accepted means of electronic transmission (provided that a copy of any notice delivered pursuant to this clause (d) shall also be sent pursuant to clause (b)), addressed as follows:

(i) if to PolyKK:

8-4 Ohashi 1-chome  
Meguro-ku  
Tokyo 153 Japan  
Attention: Takeo Gotoh  
Fax: 011-81-33-780-8619

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(ii) if to Polyclor:

8-4 Ohashi 1-chome  
Meguro-ku  
Tokyo 153 Japan  
Attention: Takeo Gotoh  
Fax: 011-81-33-780-8619

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with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(iii) if to MED:

c/o PolyGram GmbH  
P. O. Box 104909  
20034 Hamburg  
Federal Republic of Germany  
Attention: Head of Business and Legal Affairs  
Fax: 011-49-40-308-7655

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(iv) if to PGD:

The Worldwide Plaza  
825 8th Avenue, 25th Floor  
New York, New York 10015  
Attention: Head of Business and Legal Affairs  
Fax: (212) 603-7935

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

TRADEMARK

NEI 1286 FRIE 263

TRADEMARK

NEI 1223 FRIE 193

(v) if to PMDC:

700 South Battleground Avenue  
Grover, North Carolina 28073  
Attention: Head of Business and Legal Affairs  
Fax: (704) 734-4180

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(vi) if to PHI:

The Worldwide Plaza  
825 8th Avenue, 25th Floor  
New York, New York 10015  
Attention: Head of Business and Legal Affairs  
Fax: (212) 603-7935

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(vii) if to PRI:

The Worldwide Plaza  
825 8th Avenue, 25th Floor  
New York, New York 10015  
Attention: Head of Business and Legal Affairs  
Fax: (212) 603-7935

TRADEMARK

REEL 1286 FRAME 264

TRADEMARK

REEL 1223 FRAME 194

with a copy to:

PolyGram International Limited  
30 Berkeley Square  
London W1X 5HA  
England  
Attention: General Counsel  
Fax: 011-44-71-499-2596

(viii) if to Busby:

424 South Plymouth Avenue  
Los Angeles, California 90020

with a copy to:

Irell & Manella  
1800 Avenue of the Stars  
Suite 900  
Los Angeles, California 90067  
Attention: Werner F. Wolfen, Esq.  
Fax: (310) 203-7199

(ix) if to Motown Management Corporation:

c/o Boston Ventures  
21 Custom House Street  
Boston, Massachusetts 02110  
Attention: Martha H.W. Crowninshield  
Fax: (617) 737-3709

with a copy to:

Irell & Manella  
1800 Avenue of the Stars  
Suite 900  
Los Angeles, California 90067  
Attention: Werner F. Wolfen, Esq.  
Fax: (310) 203-7199

10.2 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

TRADEMARK

REEL 1286 FRAME 265

TRADEMARK

REEL 1223 FRAME 195



**10.3 Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each party and delivered to each party.

**10.4 Separability of Provisions.** Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions of this Agreement, or the application of such provision to any Person or circumstance, shall be held invalid or unenforceable, such provision or provisions shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining provisions hereof, or the application of the affected provision to Persons or circumstances other than those to which it was held invalid or unenforceable.

**10.5 Section Titles.** Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

**10.6 Waiver.** No failure by any Partner to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

**10.7 Entire Agreement.** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof and supersedes any prior expression of intent or agreement of the Partners with respect thereto.

TRADEMARK

TRADEMARK

REEL 1286 FRAME 266

REEL 1223 FRAME 196

IN WITNESS WHEREOF, the undersigned have executed this Agreement  
as of the date first above written.

**GENERAL PARTNERS:****POLYGRAM KK**

By: *Terumi Mizuta*  
Terumi Mizuta  
President

By: *Takeo Gotoh*  
Takeo Gotoh  
Chief Financial Officer

**POLYDOR KK**

By: *Terumi Mizuta*  
Terumi Mizuta  
President Chairman

By: *Takeo Gotoh*  
Takeo Gotoh  
Chief Financial Officer

**MOTOWN ENTERTAINMENT  
(DEUTSCHLAND) GmbH**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**LIMITED PARTNERS:****POLYGRAM GROUP DISTRIBUTION, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**POLYGRAM MANUFACTURING AND  
DISTRIBUTION CENTERS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**POLYGRAM HOLDING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

TRADEMARK

REL 1286 PAGE 267

TRADEMARK

REL 1223 PAGE 197

IN WITNESS WHEREOF, the undersigned have executed this Agreement  
as of the date first above written.

## GENERAL PARTNERS:

## LIMITED PARTNERS:

POLYGRAM KK

POLYGRAM GROUP DISTRIBUTION, INC.

By: \_\_\_\_\_  
Terumi Mizuta  
President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Takeo Gotoh  
Chief Financial Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

POLYDOR KK

POLYGRAM MANUFACTURING AND  
DISTRIBUTION CENTERS, INC.

By: \_\_\_\_\_  
Terumi Mizuta  
President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Takeo Gotoh  
Chief Financial Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

MOTOWN ENTERTAINMENT  
(DEUTSCHLAND) GmbH

POLYGRAM HOLDING, INC.

By: Götz Kiso  
Name: M.D. Managing Director  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: ppa Reiber  
Name: SEIBT  
Its: Prokurist

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

TRADEMARK

REEL 1286 PAGE 268

TRADEMARK

REEL 1223 PAGE 198

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

## GENERAL PARTNERS:

## POLYGRAM KK

By: \_\_\_\_\_  
Terumi Mizuta  
President

By: \_\_\_\_\_  
Takeo Gotoh  
Chief Financial Officer

## POLYDOR KK

By: \_\_\_\_\_  
Terumi Mizuta  
President

By: \_\_\_\_\_  
Takeo Gotoh  
Chief Financial Officer

MOTOWN ENTERTAINMENT  
(DEUTSCHLAND) GmbH

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## LIMITED PARTNERS:

## POLYGRAM GROUP DISTRIBUTION, INC.

By: \_\_\_\_\_  
Name: James Caporrio  
Its: President

By: \_\_\_\_\_  
Name: Julie G. Swidler  
Its: Assistant Secretary

POLYGRAM MANUFACTURING AND  
DISTRIBUTION CENTERS, INC.

By: \_\_\_\_\_  
Name: Peter O'Connell  
Its: Assistant Secretary

By: \_\_\_\_\_  
Name: Julie G. Swidler  
Its: Assistant Secretary

## POLYGRAM HOLDING, INC.

By: \_\_\_\_\_  
Name: Eric Kronfeld  
Its: President and COO

By: \_\_\_\_\_  
Name: Julie G. Swidler  
Its: Assistant Secretary

TRADEMARK

REEL 1286 FRAME 269

TRADEMARK

REEL 1223 FRAME 199

**POLYGRAM RECORDS, INC.**

By: [Signature]  
Name: Eric Kronfeld  
Its: President

By: [Signature]  
Name: Julie G. Swidler  
Its: Assistant Secretary

**WITHDRAWING GENERAL  
PARTNER:**

**POLYGRAM HOLDING, INC.**

By: [Signature]  
Name: Eric Kronfeld  
Its: President and CEO

By: [Signature]  
Name: Julie G. Swidler  
Its: Assistant Secretary

**WITHDRAWING LIMITED  
PARTNER:**

Richard Constant

**LIMITED PARTNERS** (admission effective as of  
the satisfaction of the condition set forth in  
Section 2.10(b)):

**MOTOWN MANAGEMENT CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Jieryl Busby

TRADEMARK

REEL 1286 FRAME 270

TRADEMARK

REEL 1223 FRAME 200

**POLYGRAM RECORDS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITHDRAWING GENERAL  
PARTNER:**

**POLYGRAM HOLDING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITHDRAWING LIMITED  
PARTNER:**

R. W. Galt  
Richard Constant

**LIMITED PARTNERS** (admission effective as of  
the satisfaction of the condition set forth in  
Section 2.10(b)):

**MOTOWN MANAGEMENT CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Jheryl Busby

TRADEMARK

TRADEMARK

REEL 1223 FRAME 201

REEL 1286 FRAME 271

**POLYGRAM RECORDS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITHDRAWING GENERAL  
PARTNER:**

**POLYGRAM HOLDING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITHDRAWING LIMITED  
PARTNER:**

Richard Constant

**LIMITED PARTNERS** (admission effective as of  
the satisfaction of the condition set forth in  
Section 2.10(b)):

**MCTOWN MANAGEMENT CORPORATION**

By: *Richard Constant*  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Jheryl Busby

TRADEMARK

TRADEMARK

REEL 1223 FRAME 202

REEL 1286 FRAME 272

**POLYGRAM RECORDS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITHDRAWING GENERAL  
PARTNER:**

**POLYGRAM HOLDING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

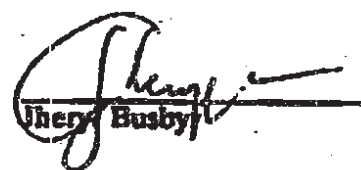
**WITHDRAWING LIMITED  
PARTNER:**

Richard Constant

**LIMITED PARTNERS** (admission effective as of  
the satisfaction of the condition set forth in  
Section 2.10(b)):

**MOTOWN MANAGEMENT CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

  
Cheryl Busby

TRADEMARK

REEL 1223 FRAME 203

TRADEMARK

REEL 1286 FRAME 273



**Schedule A**

**Name of General Partner**

**Capital Contribution**

**PolyGram KK**

**\$ [REDACTED]**

**Polydor KK**

**\$ [REDACTED]**

**Motown Entertainment  
(Deutschland) GmbH**

**\$ [REDACTED]**

**Name of Limited Partner:**

**Capital Contribution**

**PolyGram Group  
Distribution, Inc.**

**\$ [REDACTED]**

**PolyGram Manufacturing  
and Distribution Centers, Inc.**

**\$ [REDACTED]**

**PolyGram Holding, Inc.**

**\$ [REDACTED]**

**PolyGram Records, Inc.**

**\$ [REDACTED]**

**Motown Management  
Corporation**

**\$ [REDACTED]**

**Jheri Busby**

**\$ [REDACTED]**

TRADEMARK

REEL 1223 FRAME 204

TRADEMARK

REEL 1286 FRAME 274

## EXHIBIT B

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (the "Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, by and between Motown Record Company, L.P., a California limited partnership ("Company"), and \_\_\_\_\_, an individual ("Representative"), with reference to the following facts and circumstances:

A. Representative shall serve as a member ("Member") of Company's Management Committee.

B. Representative has expressed a reluctance to become a Member of Company without adequate indemnification or insurance against the substantial risks of liability currently associated with being a Member.

C. In order to induce Representative to become a Member, Company has agreed to grant Representative adequate indemnification and insurance against such risks of liability

NOW, THEREFORE, in consideration of Representative's agreement to serve as a Member, Company hereby agrees as follows:

1. Indemnification. If Representative is made a party to or is threatened to be made a party to or is involuntarily involved in any threatened, pending or completed action or proceeding which is filed subsequent to the date hereof, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that Representative (a) is or was a Member of Company, or (b) is or was serving at the request of Company as a management committee member and/or director of another foreign or domestic partnership, corporation, joint venture, trust or other enterprise, whether the basis of such Proceeding is an alleged action in an official capacity as a Member, management committee member, director and/or partner, or in any other capacity while a Member, management committee member, director and/or partner, Representative shall be indemnified and held harmless by Company to the fullest extent possible under applicable law (assuming in the case of a California limited partnership that the standards of Section 317 of the California Corporations Code as then in force are applicable) against all expenses, liability and loss (including, without limitation, reasonable attorneys' fees and costs, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement, provided that no settlement shall be made without Company's prior written consent, which shall not be unreasonably withheld) actually and reasonably incurred or

TRADEMARK

TRADEMARK

REEL 1286 FRAME 275

REEL 1223 FRAME 205

suffered by Representative in connection with such Proceeding. Reasonable expenses incurred by Representative in defending any such Proceeding shall be advanced by Company prior to the final disposition of any such Proceeding upon receipt by Company of an undertaking by or on behalf of Representative to repay all amounts so advanced if it should be determined ultimately that Representative is not entitled to be indemnified under this Agreement or otherwise.

2. Remedy to Enforce Right to Indemnification. If a claim for indemnity under Section 1 of this Agreement is not paid in full by Company within ninety (90) days after a written claim has been received by Company, Representative may at any time thereafter bring suit against Company to recover the unpaid amount of the claim, together with interest thereon, and if successful in whole or in part, Representative shall also be entitled to be paid the expense of prosecuting such claim, including reasonable attorneys' fees and costs incurred in connection therewith. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required undertaking has been tendered to Company) that Representative has not met the standards of conduct which make it permissible under applicable law (assuming in the case of a California limited partnership that the standards of section 317 of the California Corporations Code as then in force are applicable) for Company to indemnify Representative for the amount claimed, but the burden of proving such a defense shall be on Company. Neither the failure of Company (or of its general partners, its full Management Committee, its Members who are not parties to the Proceeding with respect to which indemnification is claimed, its limited partners, or independent legal counsel) to have made a determination prior to the commencement of an action pursuant to this Section 2 that indemnification of Representative is proper in the circumstances because Representative has met the applicable standard of conduct under applicable law, nor an actual determination by any such person or persons that Representative has not met such applicable standard of conduct, shall be a defense to such action or create a presumption that Representative has not met the applicable standard of conduct.

3. Contract Right Not Exclusive. The rights conferred to Representative by this Agreement shall not be exclusive of any other right which Representative may have or hereafter acquire under applicable law, or any provision contained in Company's Certificate of Limited Partnership or the Limited Partnership Agreement, or any other agreement, or pursuant to a vote of partners or disinterested Members, or otherwise. Neither this Agreement nor any payments made hereunder shall constitute a waiver of any claims that Company may have or obtain under the Limited Partnership Agreement.

4. **Insurance.** Company may purchase and maintain insurance on behalf of its employees, Members and partners against any liability asserted against or incurred by any of them by reason of the fact that such person is or was an employee, Member or partner of Company whether or not Company would have the power to indemnify such persons against such liability under applicable law. Representative agrees to reimburse Company for any funds paid hereunder which are paid to Representative under any such policy.

5. **Termination.** This Agreement may only be amended or terminated by a writing to that effect executed by Company and Representative. Representative shall not forfeit its status as a beneficiary under this Agreement by the termination of Representative's relationship with Company.

6. **Saving Clause.** If this Agreement or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, Company shall nevertheless indemnify Representative to the fullest extent permitted by any applicable portion of this Agreement that shall not have been invalidated or by any other applicable law.

7. **Successors and Assigns.** This Agreement shall be binding upon Company and its successors and assigns.

8. **Notices.** Unless otherwise specifically permitted by this Agreement, all notices under this Agreement will be in writing and will be delivered by personal service or telegram, telecopy or certified mail (if such service is not available, then by first class mail), postage prepaid, to such address as may be designated from time to time by the relevant party, and which will initially be as set forth below. Any notice sent by certified mail will be deemed to have been given three (3) days after the date on which it is mailed. All other notices will be deemed given when received. No objection may be made to the manner of delivery of any notice actually received in writing by an authorized agent of a party. Notices will be addressed as follows or to such other address as the party to whom the same is directed will have specified in conformity with the foregoing:

(1) If to Representative:

Attn: \_\_\_\_\_

Fax: \_\_\_\_\_

With a copy given in like manner to:

\_\_\_\_\_  
 \_\_\_\_\_  
 Attn: \_\_\_\_\_  
 Fax: \_\_\_\_\_

(11) If to Company:

Motown Record Company, L.P.  
 6255 Sunset Boulevard  
 Los Angeles, California 90028  
 Attn: Head of Business and Legal Affairs  
 Fax: (213) 298-4585

With copies given in like manner to:

PolyGram International Ltd.  
 30 Berkeley Square  
 London W1X 5HA  
 England  
 Attn: General Counsel  
 Fax: 011-44-71-499-2596

PolyGram KK  
 8-4, Ohashi 1-Chome  
 Meguro-ku  
 Tokyo 153, Japan  
 Attn: Takeo Gotoh  
 Fax: 011-81-33-780-8619

Motown Entertainment (Deutschland) GmbH  
 P.O. Box 104909  
 20034 Hamburg  
 Federal Republic of Germany  
 Attn: Head of Business and Legal Affairs  
 Fax: 011-49-40-308-7655

O'Melveny & Myers  
 1999 Avenue of the Stars, Suite 700  
 Los Angeles, California 90067  
 Attn: David I. Weil, Esq.  
 Fax: (310) 246-6779

9. Applicable Law. This Agreement shall be governed by and construed in accordance with California law.

TRADEMARK

TRADEMARK

REL1286 FAME278

REL1223 FAME208

IN WITNESS WHEREOF, the parties hereto have executed  
this Agreement as of the date first written above.

MOTOWN RECORD COMPANY, L.P.,  
a California limited partnership

By: \_\_\_\_\_  
Its: \_\_\_\_\_

TRADEMARK

REEL 1286 FRAME 279

TRADEMARK

REEL 1223 FRAME 209

# EXHIBIT 2



200 SOUTH HOPE STREET  
LOS ANGELES, CALIFORNIA 90071-2899  
TELEPHONE (213) 869-6000  
FACSIMILE (213) 869-6407

NEWPORT CENTER DRIVE  
BEACH, CALIFORNIA 92680-8429  
TELEPHONE (714) 760-8600  
FACSIMILE (714) 669-6994

555 13TH STREET, N.W.  
WASHINGTON, D.C. 20004-1109  
TELEPHONE (202) 383-5300  
FACSIMILE (202) 383-5414

CITICORP CENTER  
153 EAST 53RD STREET  
NEW YORK, NEW YORK 10022-4611  
TELEPHONE (212) 326-2000  
FACSIMILE (212) 326-2061

WRITER'S DIRECT DIAL NUMBER

(310) 246-6786

O'MELVENY & MYERS  
1999 AVENUE OF THE STARS  
LOS ANGELES, CALIFORNIA 90067-6035  
TELEPHONE (310) 553-6700  
TELEX 674097 FACSIMILE (310) 246-6779

October  
12th  
1993

EMBARCADERO CENTER WEST  
275 BATTERY STREET  
SAN FRANCISCO, CALIFORNIA 94111-3305  
TELEPHONE (415) 984-8700  
FACSIMILE (415) 984-8701

10 FINSBURY SQUARE  
LONDON EC2A 1LA  
TELEPHONE (071) 256-8451  
FACSIMILE (071) 639-8205

AKASAKA TWIN TOWER, EAST 18TH FLOOR  
2-17-22 AKASAKA, MINATO-KU  
TOKYO 107  
TELEPHONE (03) 3587-2800  
FACSIMILE (03) 3587-9736

AVENUE LOUISE 106  
1050 BRUSSELS  
TELEPHONE (02) 647-06-50  
FACSIMILE (02) 646-47-29

OUR FILE NUMBER

677,463-001

VIA EXPRESS MAIL

Honorable Commissioner of  
Patents and Trademarks  
Box 5  
Washington, D.C. 20231

Attention: Assignment and Certification Division

Dear Sir:

Please record the enclosed Assignment of Application.

Enclosed herewith is our check in the amount of One Thousand Fifteen Dollars (\$1,015.00) to cover the costs of recordation. Please acknowledge receipt of the enclosed document by date-stamping the enclosed post card and returning it to me as indicated. After recordation, kindly return the document to me at the address indicated above.

Thank you for your kind assistance in connection with this matter.

Very truly yours,

Stacy A. Kreisberg  
for O'MELVENY & MYERS

Enclosure

cc: Sharon A. Borak, Esq.

176649

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090 BA 10/28/93 74319227

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0 482

40.00 CK

975.00 CK

89145356

RECEIVED  
OCT 28 AM 7:13

FILED  
OCT 26 1993



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEED OF ASSIGNMENT

WHEREAS, Motown Record Company, L.P., a Delaware limited partnership ("Assignor") whose principal address is 6255 Sunset Boulevard, Los Angeles, California 90028 has adopted, used and is using those certain marks listed on Schedule 1 hereto for which it has obtained or applied for registration from the United States Patent and Trademark office, together with any marks in which only common law rights exist (collectively, the "Marks"); and

WHEREAS, MRAC, L.P., a California limited partnership ("Assignee"), whose principal address is c/o A&M Records, Inc., 1416 North La Brea Avenue, Los Angeles, California 90028, is desirous of acquiring the Marks, all related goodwill, together with any and all related registrations or applications for registration, as well as the right to sue for any past infringement of the Marks;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor does hereby assign to Assignee all of Assignor's right, title, and interest in and to the Marks together with the goodwill of the business symbolized thereby, as well as any and all related registrations or applications for registration and any and all causes of action for past infringement of the Marks.


For those Marks listed on Schedule 1 for which there is a pending application for registration, Assignee requests that the Commissioner of Patents and Trademarks issue the registrations to Assignee.

Executed at Boston, Massachusetts, effective as of the 2nd day of September, 1993.

ASSIGNOR

Motown Record Company, L.P.

By: Motown Management Corporation,  
General Partner

By:   
Martha H. W. Crowninshield  
President

TRADEMARK

FILED 1071 FILED 227

STATE OF MA )  
COUNTY OF SUFFOLK )

On October 6, 1993, before me, Sherri L. Dettenrieder  
Notary Public, personally appeared Martha H.W. Crowninshield  
personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person whose name is  
subscribed to the within instrument and acknowledged to me  
that she executed the same in her authorized capacity, and  
that by her signature on the instrument the person, or the  
entity upon behalf of which the person acted, executed the  
instrument.

WITNESS my hand and official seal.

Sherri L. Dettenrieder  
Martha H.W. Crowninshield

Notary Public

TRADEMARK

REI1071 FME228

SCHEDULE 1

U.S. REGISTERED MARKS

<u>MARK</u>	<u>REG. NO.</u>	<u>REG. DATE</u>
HITSVILLE	1,077,295	11/15/77
JACKSON 5	965,809	08/07/73
M & Design	1,368,252	10/29/85
M & Design	1,432,360	03/10/87
M MOTOWN & Design	1,075,409	10/18/77
MOROCCO & Design	1,342,156	06/18/85
MOTORTOWN REVUE	1,687,331	05/12/92
MOTOWN	800,977	12/28/65
MOTOWN	881,471	11/25/69
MOTOWN	985,972	06/11/74
MOTOWN	1,102,357	09/12/78
MOTOWN & Design	985,976	06/11/74
MOTOWN REVUE	1,730,413	11/03/92
MOTOWN REVUE	1,766,298	04/20/93
NATURAL RESOURCES	985,978	06/11/74
NATURAL RESOURCES & Design	985,977	06/11/74
RARE EARTH	893,744	06/30/70
TAMLA	800,978	12/28/65
TAMLA	985,973	06/11/74
TAMLA & Design	1,026,437	12/02/75
THE SUPREMES	1,003,076	01/28/75
THE SUPREMES	1,009,265	04/22/75
THE TEMPTATIONS	879,695	10/28/69

U.S. PENDING APPLICATIONS

Use Applications

<u>MARK</u>	<u>APP. NO.</u>	<u>APP. DATE</u>
MOTOWN	319,227	09/30/92
MOTOWN MASTER SERIES & Design	342,673	12/23/92

Intent to Use Applications

<u>MARK</u>	<u>APP. NO.</u>	<u>APP. DATE</u>
MOJAZZ	276,052	05/18/92
MOJAZZ	277,092	05/18/92
MOJAZZ	316,917	09/23/92
MOJAZZ	316,922	09/23/92

MOJAZZ & Design	276,062	05/18/92
MOJAZZ & Design	276,361	05/18/92
MOTOWN	319,226	09/30/92
MOTOWN	319,495	09/30/92
MOTOWN MASTER SERIES & Design	339,032	12/10/92
MOTOWN'S MOJAZZ	276,061	05/18/92
MOTOWN'S MOJAZZ	276,514	05/18/92
THE JACKSONS AN AMERICAN DREAM & Design	326,622	10/28/92
THE JACKSONS AN AMERICAN DREAM & Design	326,643	10/28/92
SLIGHTLY TO THE LEFT	316,903	09/23/92
SLIGHTLY TO THE LEFT	316,918	09/23/92

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OCT 13 1992

OCT 13 92

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MARK

# EXHIBIT 3



# State of California

## Secretary of State

Form L

### AMENDMENT TO CERTIFICATE OF LIMITED PARTNERSHIP

IMPORTANT—Read instructions on back before completing this form

This Certificate is presented for filing pursuant to Section 15622, California Corporations Code.

1. SECRETARY OF STATE FILE NO. (ORIGINAL CERTIFICATE—FORM LP-1) 9321100010		2. NAME OF LIMITED PARTNERSHIP MRAC, L.P., a California limited partnership	
3. THE CERTIFICATE OF LIMITED PARTNERSHIP IS AMENDED AS FOLLOWS: COMPLETE APPROPRIATE SUB-SECTION(S) CONTINUE ON SECOND PAGE, IF NECESSARY. A. THE LIMITED PARTNERSHIP NAME IS CHANGED TO: Motown Record Company, L.P., a California limited partnership			
B. PRINCIPAL EXECUTIVE OFFICE ADDRESS CHANGE:  ADDRESS:  CITY: STATE: ZIP CODE:		E. GENERAL PARTNER NAME CHANGE:  OLD NAME:  NEW NAME:	
C. CALIFORNIA OFFICE ADDRESS CHANGE:  ADDRESS:  CITY: STATE: CA ZIP CODE:		F. GENERAL PARTNER(S) WITHDRAWN:  NAME:  NAME:	
D. GENERAL PARTNER ADDRESS CHANGE:  NAME:  ADDRESS:  CITY: STATE: ZIP CODE:		G. GENERAL PARTNER ADDED:  NAME:  ADDRESS:  CITY: STATE: ZIP CODE:	
H. PERSON(S) WINDING UP AFFAIRS OF LIMITED PARTNERSHIP:  NAME:  ADDRESS:  CITY: STATE: ZIP CODE:		I. INFORMATION CONCERNING THE AGENT FOR SERVICE OF PROCESS HAS BEEN CHANGED TO:  NAME:  ADDRESS:  CITY: STATE: CA ZIP CODE:	
J. THE NUMBER OF GENERAL PARTNERS REQUIRED TO ACKNOWLEDGE AND FILE CERTIFICATES OF AMENDMENT, RESTATEMENT, DISSOLUTION, CONTINUATION, CANCELLATION AND MERGER IS CHANGED TO:  <input type="checkbox"/>		K. OTHER MATTERS TO BE INCLUDED IN THE CERTIFICATE OF LIMITED PARTNERSHIP ARE AMENDED AS INDICATED ON THE ATTACHED PAGE(S).  NUMBER OF PAGES ATTACHED: <input type="text" value="0"/>	

4. IT IS HEREBY DECLARED THAT I AM (WE ARE) THE PERSON(S) WHO EXECUTED THE AMENDMENT TO THE IDENTIFIED CERTIFICATE OF LIMITED PARTNERSHIP, WHICH EXECUTION IS MY (OUR) ACT AND DEED. (SEE INSTRUCTIONS)

SIGNATURE <i>Terumi Mizuta</i> President of PolyGram KK POSITION OR TITLE DATE 9/2/93	SIGNATURE POSITION OR TITLE DATE
SIGNATURE <i>Takeo Gotoh</i> Financial Officer of PolyGram KK POSITION OR TITLE DATE 9/2/93	SIGNATURE POSITION OR TITLE DATE

#### 5. RETURN ACKNOWLEDGMENT TO:

NAME  
ADDRESS Sharon A. Borak, Esq.  
CITY O'Melveny & Myers  
STATE 1999 Avenue of the Stars, #700  
Los Angeles, CA 90067-6025

THIS SPACE FOR FILING OFFICE USE

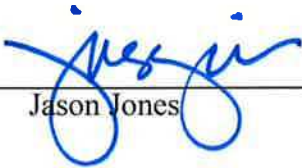
RECORDED: 11/17/1999

TRADEMARK  
REEL: 001996 FRAME: 0291

**CERTIFICATE OF SERVICE**

I hereby certify that, on February 17, 2012, a copy of the foregoing **ANSWER TO REGISTRANT'S AMENDED COUNTERCLAIM** was sent by first class mail postage pre-paid, and by e-mail, to Registrant's counsel of record as follows:

Charles W. Grimes, Esq.  
Jessica S. Rutherford, Esq.  
GRIMES & BATTERSBY, LLC  
488 Main Avenue, Third Floor  
Norwalk, CT 06851  
[grimes@gandb.com](mailto:grimes@gandb.com)  
[rutherford@gandb.com](mailto:rutherford@gandb.com)

  
\_\_\_\_\_  
Jason Jones